

9	Paragraph bridging pages 10 and 11
10	Claim 2
11	Page 9, third full paragraph

Thus, each of the present claims are entitled to a priority date of December 27, 2002.

Claims 1-11 stand rejected under 35 USC § 102(a) as allegedly being anticipated by JP 2003-238235. However, as JP '235 was published on August 27, 2003, this document is not available as a reference under 35 USC § 102(a) against the present claims. Reconsideration is therefore respectfully requested.

Claims 1-11 stand provisionally rejected under the ground of nonstatutory obviousness-type double patenting as allegedly being unpatentable over claims 1-8 of co-pending U.S. Appl. No. 10/548,380. As the Examiner is undoubtedly aware, a Terminal Disclaimer, once filed, cannot be withdrawn. As the final form of the claims of this application and the '380 application have not been determined, it is submitted that this rejection is premature, but Applicants shall consider filing any necessary Terminal Disclaimer upon receipt of a Notice of Allowance in connection with this application or the '380 application.

The Office Action indicates JP 2000-037661 has not been considered as it does not appear to be related to the claimed invention. Applicants respectfully submit that the Examiner cannot simply cross-off a reference because he believes it not to be relevant. Under 37 CFR § 1.97(b), "An information disclosure statement *shall* be considered by the Office if filed by the applicant ..." Since JP '661 was properly and timely submitted in an Information Disclosure Statement under 37 CFR § 1.97(b)(1), the Office has no choice but to consider JP '661. However, as in determining that the document does not appear to be relevant, the Office has actually already considered the document. Applicants expressly request the next communication contain a confirmation that JP '661 was considered.

As all objections/rejections have been overcome, Applicants respectfully request a Notice of Allowance. Should any fee be necessary to make this paper, or any paper filed herewith, timely and/or complete, such fee may be deducted from deposit account no. 19-4375.

Respectfully submitted,



Thomas P. Pavelko  
Registration No. 31,689

TPP/mat  
Attorney Docket No.: TPP 31769

STEVENS, DAVIS, MILLER & MOSHER, L.L.P.  
1615 L Street, N.W., Suite 850  
Washington, D.C. 20036  
Telephone: (202) 785-0100  
Facsimile: (202) 408-5200 or (202) 408-5088

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ATTACHMENT